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TRAFFICSCHOOL.COM, INC. and

DRIVERS ED DIRECT, LLC

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

TRAFFICSCHOOL.COM, INC., a
California corporation; DRIVERS ED
DIRECT, LLC, a California limited
liability company,

Plaintiffs,

v.

EDRIVER, INC., ONLINE GURU,
INC., FIND MY SPECIALIST, INC.,
and SERIOUSNET, INC., California
corporations; RAVI K. LAHOTI, RAJ
LAHOTI, individuals,

Defendants.

CASE NO. CV 06-7561 PA (CWx)

The Honorable Percy Anderson

JOINT EX PARTE APPLICATION
FOR CORRECTION OF THE
COURT'S MAY 3, 2012 ORDER RE:
ATTORNEYS' FEES AND COSTS,
AND ISSUANCE OF AN AMENDED
ORDER; MEMORANDUM OF
POINTS AND AUTHORITIES

[Declaration of Josephine A. Brosas,
Esq. filed concurrently herewith]

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1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on May 23, 2012, or as soon thereafter as the
 3 matter may be heard by the above-entitled Court, located at 312 N. Spring Street, Los
 4 Angeles, California 90012, Plaintiffs Trafficschool.com, Inc. and Drivers Ed Direct,
 5 LLC ("Plaintiffs") and will and hereby do move this Court, *ex parte*, for correction of
 6 the May 3, 2012 Order on Plaintiffs' Motion for Attorneys' Fees and Costs (Docket
 7 Entry ["D.E."] No. 332] ("Order") and issuance of an Amended Order. This
 8 Application is being brought jointly as counsel for Defendants Ravi L. Lahoti, Raj
 9 Lahoti, eDriver, Inc., Online Guru, Inc., Find My Specialist, Inc., and Seriousnet, Inc.
 10 has advised Plaintiffs' counsel that they will stipulate to the requested correction and
 11 join in the Application. (*See* Declaration of Josephine Brosas, ¶ 2 ["Brosas Decl.],
 12 filed concurrently herewith).

13 This application is being made pursuant to Fed.R.Civ.P 60(a) which provides this
 14 Court with authority to correct clerical mistakes in a judgment, order or other part of the
 15 Court record. Specifically, by this application, Plaintiffs are requesting that the
 16 following correction be made to the Order (D.E. # 332):

17 On Page 1:

18 References to "Ravi K. Hahoti" and "Raj Hahoti" be corrected to:

19 "Ravi K. Lahoti" and "Raj Lahoti"

20 Good cause exists for the requested correction. The Order provides for an award
 21 to Plaintiffs of attorneys' fees and costs totaling \$ 573,764.45 (exclusive of interest)
 22 against Defendants Ravi L. Lahoti and Raj Lahoti (and co-defendants eDriver, Inc.,
 23 Online Guru, Inc., Find My Specialist, Inc., and Seriousnet, Inc.) (collectively,
 24 "Defendants"), and it is critical that the names of all parties be accurately reflected
 25 therein, particularly, the names of Defendants against whom the above award is
 26 entered.

27 The Parties are seeking that the above correction be made by way of the instant
 28 Application, as Plaintiffs counsel has been advised by the Court Clerk that the Court

1 will not be issuing, *sua sponte*, an Amended (or Corrected) Order, and pursuant to
 2 instructions from the Court Clerk regarding how to proceed. (See Brosas Decl., ¶¶ 2-
 3 3).

4 Pursuant to Local Rule 7-19 and this Court's Standing Order, counsel for
 5 Plaintiffs advised counsel for Defendants on May 22, 2012, the substance and the
 6 grounds for this *Ex Parte* Application. (See Brosas Decl., ¶ 4.) Defendants' Counsel
 7 has advised Plaintiffs' counsel that they will stipulate to the requested relief and will
 8 not be opposing this Application. (*Id.*, ¶ 5).

9 Pursuant to L.R. 7-19, the name, address, and telephone number of Defendants'
 10 counsel are as follows:

11 Andrew B. Serwin, Esq.
 12 Tammy Boggs, Esq.
 13 FOLEY & LARDNER LLP
 14 3579 Valley Centre Drive, Suite 300
 15 San Diego, CA 92130-3302
 16 Tel.: 858.847.6728
 17 Email: aserwin@foley.com

18 DATED: May 23, 2012

LEWIS BRISBOIS BISGAARD & SMITH LLP

20 Bv: /s/
 21 David N. Makous
 22 Daniel C. DeCarlo
 23 Mina I. Hamilton

24 *Attorneys for Plaintiffs*
 25 TRAFFICSCHOOL.COM, INC. and
 26 DRIVERS ED DIRECT, LLC
 27
 28

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

On May 3, 2012, the Court entered its Order on Plaintiffs' Motion for Attorneys' Fees and Costs, awarding \$567,729.50 in attorneys' fees and \$6,034.95 in costs to be paid to Plaintiffs by Defendants Ravi L. Lahoti and Raj Lahoti, eDriver, Inc., Online Guru, Inc., Find My Specialist, Inc., and Seriousnet, Inc. (D.E. # 332).

The text of the Order, however, contains a clerical or typographical error. Specifically, Page 1 references "Ravi K. Hahoti" and "Raj Hahoti," instead of "Ravi K. Lahoti" and "Raj Lahoti." As the caption and the record in this case establishes, "Hahoti" is an incorrect spelling of Defendants' last name.

By this *Ex Parte* application, and pursuant to Rule 60(a) of the Federal Rules of Civil Procedure, the Parties hereby request the correction of the Order to correctly reflect the names of Defendants. Good cause exists for correction as it is critical that the names of all parties be accurately reflected therein.

II. ARGUMENT

A. This Court Has Authority To Correct This Clerical Error

This Court has authority to correct clerical errors pursuant to Rule 60(a) of the Federal Rules of Civil Procedure, which provides as follows:

(a) Corrections Based on Clerical Mistakes; Oversights and Omissions.

The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave.

Fed.R.Civ.P 60(a).

"A judge may invoke Rule 60(a) in order to make a judgment reflect the

1 actual intentions of the court. Correctable errors include those where what is
 2 spoken, written or recorded is not what the court intended to speak, write or record.”
 3 *Delman v. Barclay Hotel, LLC*, 2009 U.S. Dist. LEXIS 16985, 7-8 (C.D. Cal. Feb.
 4 18, 2009), citing to *In re Jee*, 799 F.2d 532, 535 (9th Cir. 1986). “Thus, Rule 60(a)
 5 can be used only when the court intended to do one thing but, due to a ‘blunder[] in
 6 execution,’ did another; it cannot be used to correct a legal error of the court.”
 7 *Delman*, at 8. “To receive relief pursuant to Rule 60(a), Plaintiff must show that
 8 ‘the record makes apparent that the court intended one thing but by merely clerical
 9 mistake or oversight did another.’” *Id.* “In reviewing the corrected judgment, we
 10 must afford the court wide latitude and focus on what the court originally intended
 11 to do.” *Robi v. Five Platters, Inc.*, 918 F.2d 1439, 1445 (9th Cir. 1990) “Errors
 12 correctable under Rule 60(a) include those where what is written or recorded is not
 13 what the court intended to write or record. The error can be corrected whether it is
 14 made by a clerk or by the judge.” *Blanton v. Anzalone*, 813 F.2d 1574, 1577 (9th
 15 Cir. 1987).

16 **B. Good Cause Exists for Correction**

17 As set forth above, the Parties hereby request that the references on Page 1 of
 18 the Order be corrected from “Ravi K. Hahoti” and “Raj Hahoti” to “Ravi K. Lahoti”
 19 and “Raj Lahoti.” Good cause exists for this requested correction. The caption and
 20 record in this case all reflect the correctly-spelled names of Defendants, i.e., “Ravi
 21 K. Lahoti” and “Raj Lahoti.” Clearly, the Court did not intend, and could not have
 22 intended, for the Order to incorrectly refer to these individuals as “Ravi K. Hahoti”
 23 and “Raj Hahoti.” Indeed, the Amended Permanent Injunction which was entered
 24 by the Court the same day as the Order awarding fees and costs reflects the correct
 25 names of all parties. (See D.E. # 333). Correction of the Order to reflect the true and
 26 accurate names of all parties is necessary and would be in the interests of justice.

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1 **III. CONCLUSION**

2 The Parties respectfully request that the Court issue an Amended Order
3 reflecting the correctly-spelled names “Ravi K. Lahoti” and “Raj Lahoti.”
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5

6 Respectfully submitted,
7 DATED: May 23, 2012 LEWIS BRISBOIS BISGAARD & SMITH LLP
8

9 Bv: /s/
10 David N. Makous
11 Daniel C. DeCarlo
12 Mina I. Hamilton
13 *Attorneys for Plaintiffs*
14 TRAFFICSCHOOL.COM, INC. and
15 DRIVERS ED DIRECT, LLC
16

17 DATED: May 23, 2012 FOLEY & LARDNER LLP
18

19 Bv: /s/ [with permission]
20 Andrew B. Serwin
21 Tammy Boggs
22

23 *Attorneys for Defendants*
24 EDRIVER, INC., ONLINE GURU INC.,
25 FIND MY SPECIALIST, INC.,
26 SERIOUSNET, INC., RAVI K. LAHOTI,
27 RAJ LAHOTI
28